

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**JEFF NELSON, #1221058,**  
**Petitioner,**

**v.**

**NATHANIEL QUARTERMAN, Director,**  
**Texas Department of Criminal Justice,**  
**Correctional Institutions Division,**  
**Respondent.**

**3:06-CV-2302-G**  
**ECF**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an order of the Court in implementation thereof, this cause has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge are as follows:

**FINDINGS AND CONCLUSIONS:**

Type of Case: This is a *pro se* petition for a writ of habeas corpus brought by a state prisoner pursuant to 28 U.S.C. § 2254.

Parties: Petitioner is presently incarcerated at the Neal Unit of the Texas Department of Criminal Justice -- Correctional Institutions Division (TDCJ-CID) in Amarillo, Texas. Respondent is the Director of TDCJ-CID. No process has been issued in this case.

Findings and Conclusions: On January 10, 2007, the Court issued an order informing Petitioner that he had \$172.00 in his inmate trust account and, thus, that he had to pay the \$5.00 filing fee within thirty days. See Miscellaneous Order No. 6, filed on May 5, 2005, at Rule 2(a)(4) (providing that a magistrate judge can “grant leave to proceed *in forma pauperis* to a person seeking relief pursuant to 28 U.S.C. Sections 2241 and 2254, if the average six month

balance of the person's inmate trust account and other financial resources are less than Fifty Dollars."). As of date of this recommendation, the court has received neither the \$5.00 filing fee nor a motion for extension of time to pay the filing fee.

RECOMMENDATION:

For the foregoing reasons, it is recommended that the District Court DENY Petitioner's request to proceed *in forma pauperis*, filed on January 5, 2007, and DISMISS this action without prejudice for failure to pay the filing fee.

The Clerk will mail a copy of this recommendation to Petitioner.

Signed this 2nd of March, 2007.

  
WM. F. SANDERSON, JR.  
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.